

EXHIBIT 4

Date 1-16-09

Bill No. \_\_\_\_\_

**DELEGATE McKEON:** Mr. Chairman. I rise in opposition to Mr. Eskildsen's proposal and in support of the majority proposal. I served on the Revenue and Finance Committee and added, probably, more the exuberance of youth, as our Chairman said, than the expertise of my fellow colleagues. But I was impressed with certain facts and testimony before the committee. One is that we have a deplorable system of equalization and assessment in Montana. Of the reams of testimony which we heard concerning the equality of taxation among and between the counties, I can recall but one witness who testified that we had a fair and equal system between the counties. We were compelled to listen very strongly to the mandate of Serrano versus Priest. As you all know, Serrano versus Priest declared the present system of school financing in California to be unconstitutional. California's present system of school financing is based very similarly—on a system similar to ours. We were also aware—four other—and there are probably more now—cases throughout the states determining school financing at the

local level to be unconstitutional. One of these cases was ruled on by a federal panel of three judges in Texas. These cases are all on their way to the U.S. Supreme Court, and I am certain and all the members of the committee are certain and all the witnesses who testified at our committee are certain that the U.S. Supreme Court is going to rule definitively that the present system of school financing is unconstitutional. What we have, as we all know, is a system whereby counties who are blessed with perhaps a net proceeds tax from the oil or copper industry have the opportunity to lower their valuation and their mill—lower their valuation, bring their mill levy up to par, and then when they don't have enough revenue, drain the general fund. This is a burden on all of us. What our committee proposes is a system of financing whereby we all pay the same mill levy. The state, through our system, will do the assessment and appraisal. We also heard testimony of the inadequacies of the State Board of Equalization. I would dare to say that the witnesses were almost unanimous in declaring that the State Board of Equalization had created a rather shabby system of appraisal and equalization. We heard testimony concerning the local assessors. Local assessment, perhaps, is the greatest evil we have in our system. It's closest to the people, and consequently the local assessors have exerted on them great pressures for favoritism and things of this nature. This is something we must eliminate are—we're to have a fair and equal tax system. But as I mentioned before, the compelling case of Serrano versus Priest perhaps loomed heaviest on us when we were making our decision to open the doors for a system of state financing. I think this is something we cannot ignore, because it's coming. I think the committee realized it was coming, and the committee left the door open. For this reason, I urge the adoption of the majority report. I would like to point out one other problem—a problem I see in Mr. Eskildsen's amendment to our proposal. Mr. Eskildsen provides, and I am quoting, "The State Board of Equalization shall annually assess the property of all railroads, telegraphs, telephones, electric power and transmission lines, and all similar property constituting a single and continuous property operated in one—more than one county in the state, and the same shall be apportioned to the counties, cities, towns and school districts in which such property is located." This is the way it is presently, and this has to be changed again if we are to fund our schools in a manner which will be mandated by the U.S. Supreme Court in conformance with what Serrano

versus Priest stands for. Thank you very much, Mr. Chairman.

**CHAIRMAN GRAYBILL:** Mr. Artz.

**DELEGATE ARTZ:** Mr. Chairman. One thing that's been bothering me—I'm on the Revenue and Finance Committee. The other morning—yesterday morning on the ham radio net, this committee was being chewed out royally that we were providing that all property was to be taxed at fair market value. Delegate Eskildsen has also indicated that. I got a telegram, just now, from Great Falls, Belt, and Stockett saying the same thing. Now, I want to get it in the record, loud and clear, that I am a strong advocate of taxing on productive value rather than fair market value. I have been assured by all the members of the committee that Section 3 does not make it mandatory that property be taxed at market value. The wording—it says, "is equalized". Mr. Eskildsen's amendment says "equalized" also. Therefore, I oppose the amendment. Thank you.

**CHAIRMAN GRAYBILL:** Mr. Furlong.

**DELEGATE FURLONG:** Mr. Chairman, fellow delegates. I, too, am a member of the Tax and Revenue Committee. I do not pose as a tax expert. I do rise in opposition to Mr. Eskildsen's proposal. What it will actually do is lock into the Constitution what we've had. It won't change it. I'm sure you're all aware—I know you're all aware—that the power to tax is an inherent power and it's inherent to the Legislature. I think it is fundamental that the Legislature must be able to devise and control and equalize and appraise the property in the State of Montana for the benefit of all Montanans. Thank you, Mr. Chairman.

**CHAIRMAN GRAYBILL:** Mr. Drum.

**DELEGATE DRUM:** Mr. Chairman. This looks like a parade of the members of the Finance and Revenue Committee. We've spent a good deal of time talking with Joe, and I feel a little bit guilty that he's being outnumbered at the front here, but I think he's pretty well able to take care of himself. I'd like to say a word about this committee. We're really pretty proud of the product that has come out of this committee. If you will look at the vote on this section in the back of our booklet, it was unanimous from the entire committee that this wording be used. There was no disagreement at all as to our vote. Now, our first conversations in our committee were not directed necessarily to taxes, not necessary to revenues; it was sort of a bull

session of where we—what contribution we could make to this Convention and to the people of Montana that would have a beneficial effect on the citizens who are going to live in our state in the years ahead. And throughout our deliberations, I think this thought was incumbent on us—that we were trying to look ahead at the problems of Montana of the future. And we were all in agreement that we want to make Montana a place that our children want to live and are able to live. Much of the testimony we had was directed at the non-equalization or inequality of the taxing system that we have here today. Now, you've heard from Mr. Eskildsen, and I'm sure that you recognize that many of the—of his thoughts probably reflect the thinking of some of the boards—of some of the people who are involved in the structure here now. And in no way did we want to be critical of these people. We think they're good public servants; we think they're doing a good—we—they're working hard; they're striving to accomplish what they think is, undoubtedly, in the best interests of the people of the State of Montana. But the facts of the matter are these: from the testimony we received, we do not have true equality of taxation in the state right now. Now, what effect will true equality have—of taxation? And true equality may be defined, perhaps, as: "When the other fellow pays the taxes and I don't pay any, we have true equality." This may be some of the thinking behind the statement that you heard today. But our group feels that if Montana is to go ahead, we are going to have to have equalization in the eyes of those who would like to either stay in Montana and invest money or those who would like to come to Montana and invest money, creating more jobs for our young people. It takes about a \$20,000 investment to furnish a job for someone. Well, it—in the State of Montana, we've got an awful lot of nice people and we've got an awful lot of nice country. And we've got room for more of our young people to stay here if we're able to create employment opportunities for these young people. And it is in this direction that our board was pointed. Now, our feeling—we have—we express a confidence in the Legislature to make the determinations of how the people of the future are going to be taxed. In my mind, the Legislature acts somewhat as a Board of Directors in a corporation. And for a corporation to say, "We are going to appoint a Board of Directors and charge them with certain responsibilities that are going to be the same responsibilities 50 or 100 or 200 years from now," just doesn't look like it's reasonable. The Legislature is responsive to the

people. The Legislature is the people. As times change, as attitudes change, as our economy changes, the Legislature can respond to these changes. And if we lock in wording into the Constitution, it may make it very difficult for our state, which we all are so much in love with, to grow and develop like we hope that it will be able in the future years. Now, the committee is not recommending that we fire anybody. We're not talking about any job losses, and we're not talking about people really losing their responsibility. What we're doing is, we're taking them out of the Constitution and putting it in the hands of the Legislature. And as Mr. McDonough explained—I think quite clearly, but I would like to re-emphasize—it's very, very likely that the Legislature will use much the same structure that we have now. The Tax Assessors may have much the same responsibility in the future. The Assessors, as you all know, are the guys that count the cows. They're the ones that look at the land, determine what the value is. The appraising of the property is the area that there is some question. An Assessor finds it, locates it, but he may look at the appraisal process a little differently than someone else. And our feeling was—and it was, again, derived from the testimony we heard—was that the appraising of Montana property should be equalized, because an acre of land that produces so much—and, again, we are not arguing about the method of taxation, because that, again, is already in the hands of the Legislature; it's statutory—the classification of properties is statutory. The things you heard this morning of farmlands which now pay 21 million, may pay 56 million, this is away from our intent. It—the Legislature, at the present time, are the people who determine the classification of these properties. But what—our feeling was that if we can arrive at a fair, equitable appraisal system for the State of Montana, the people of Montana are going to benefit, because we are going to have an open and a growing economy and environment. Now, I'd like to quote, this morning—I'm not a great reader of the *Missoulian* and I'm not really a great green-button-puncher, as most of you know—but there's kind of an interesting editorial this morning that may bear reading at this time. About—toward the end, it says: "Today the Convention"—referring to our Convention—"is scheduled to take up the Revenue and Finance Committee proposal. It is a fine document containing both progressive ideas and essential compromises. Yet, it is a good bet that the Convention will surrender to the highway lobby on the highway trust fund issue, which has